Taylor[3] and *Glynn v. Simmons*[4] the charge was under section 4 of the Vagrancy Act with frequenting a place of public resort *with intent to commit a felony.*

The point is that in those cases the wrongful purpose or intent was an essential ingredient of the charge; and a person "frequents" a place if he is there long enough to effect the wrongful purpose or intent with which he is charged. But in the section under consideration no intent or purpose need be proved; and I must disagree with the opinion expressed by the learned District Judge that "an intent to smoke opium is necessary to substantiate a charge of frequenting." The section does not say so, nor in my opinion can any such meaning be implied. The offence under the section is the mere act of "frequenting."

It is conceded by Mr. Simpson that one casual visit would not be "frequenting." If the Legislature had intended to make that an offence the term used would have been "is found in." And as no purpose or intent is specified this case cannot fall within the class of case to which I have referred where it has been held that frequenting means being there long enough for the purpose or intent in hand. Therefore the word can only be given its ordinary meaning of "visiting often." The section makes it an offence to frequent any place or places. A person commits an offence under the section if he visits one set of premises often, or if he visits a number of similar premises on one occasion each. But he does not commit an offence under this section by visiting one set of premises once only.

CHU WAN THONG v. PUBLIC PROSECUTOR; LU WAH THONG v. PUBLIC PROSECUTOR.

[A. Cr. J. (Briggs, J.) January 15, 1953]

[Raub — Criminal Appeals Nos. 8 & 9 of 1952]

Public Service and Vehicles (Licensing) Regulations, 1948, reg. 2 — "Goods vehicle" — Meaning of.

The question raised in these appeals was whether a station wagon was a "goods vehicle" within the meaning of reg. 2 of the Public Service and Goods Vehicles (Licensing) Regulations.

Held: as a station wagon is not mainly constructed or adapted for the carriage of goods, it does not come within the definition of a "goods vehicle".

CRIMINAL APPEAL.

R. P. S. Rajasooria for the appellants.

J. D. Peterkin (Federal Counsel) for the Public Prosecutor.

Cur. Adv. Vult.

Briggs, J. [delivering oral judgment, said]: — These two appeals were heard together as the convictions in question were convictions of the driver and owner respectively of the same vehicle and in respect of the same transaction. The facts were that the vehicle was a station wagon. There are no details on the record showing what sort of a station wagon it was, but the prosecution's case was that it was a 'goods vehicle' within the meaning of Regulation 2 of the Public Service and Goods Vehicles (Licensing) Regulations, Gazette Notification No. 101 of 31st December, 1945. If it was a 'goods vehicle' under rule 3 of those Regulations, it was not allowed to be used for the conveyance of goods on a road repairable at public expense, unless there was a Goods Vehicle Licence in force in respect of it. If, however, it was not a goods vehicle but a passenger vehicle, goods could be carried on it without any offence being committed.

The two appellants were both under the impression that in law the vehicle must be treated as a goods vehicle, and that offences had therefore been committed. There was in each case a second charge that the said goods vehicle was used for the carriage of goods without a permit, and to these charges also the appellants pleaded guilty. On those pleas a third charge was added, of using the vehicle without having in force in respect thereof proper third party insurance, and to this again the pleas were guilty; but if the vehicle was a passenger vehicle no offence was committed in any of the three cases.

The definition of 'goods vehicle' in the regulations is as follows: " 'goods vehicle' means a motor-vehicle constructed or adapted for the carriage of goods, or a trailer so constructed or adapted." I am of opinion that a normal station wagon is not within this definition for the following reasons. I think that a station wagon is 'constructed', not for the carriage of goods, but for the carriage of passengers together with an unusually large amount of luggage, or sports equipment, camping equipment or the like, which is not ordinarily capable of being accommodated in a simple passenger car. I think that 'constructed for the carriage of goods' implies a vehicle which one would normally describe as a 'commercial vehicle', and I do not think that a station wagon is a commercial vehicle in the ordinary sense. It is intended to be domestic vehicle, but with unusually good facilities for carrying luggage or other paraphernalia. It is not primarily intended for the carriage of 'goods' which means goods in the commercial sense. If then it is not 'constructed' for the carriage of goods, can it be said to be 'adapted' for the carriage of goods? I think not. I think 'adapted' does not mean merely 'suitable', but definitely means in some way constructionally changed so as to have a

form different from its original form. It has been suggested that, as many station wagons have some of their seats removable, the removal of such seats would be an 'adaptation' for the carriage of goods, but I do not think that that complies with the requirements of the word 'adapted'. Where the vehicle is specifically made so as to be usable with or without certain seats, I do not think it is an 'adaptation' to change from using it with seats to using it without them, or *vice versa*. If, on the other hand, an ordinary private car which has not got removable seats were to have the seats permanently removed, which would be an operation requiring constructional alteration, that would, I think, or at least might, be 'adaptation' for the carriage of goods. If this reasoning is correct, there is no doubt that the two appellants pleaded guilty under a misapprehension as to the effect of the law, and although they cannot appeal against their convictions in view of having pleaded guilty, I think that justice requires that I should set aside the convictions and sentences on revision.

The same considerations apply to the convictions on all three charges in each case, and the convictions and sentences, including the orders for suspension of driving licences, are set aside.

Convictions and sentences set aside.

BADAT BIN DRANI v. TAN KHEAT.

[O. C. J. (Briggs, J.) January 19, 1953]

[Raub — Originating Motion No. 1 of 1952]

Landlord and tenant — Application for order of certiorari to quash order of Rent Board — Condition under which certiorari may issue — Effect of a void Rent Board Order.

This was an application for an order of certiorari to quash an order of the Rent Board at Raub. It appeared that the Board's order was unlawful in that it ordered the applicant to vacate certain premises and imposed certain conditions, which it had no jurisdiction to.

Held: the making of the order of certiorari was discretionary and would not be made if the conduct of applicant had been such as to disentitle him to the relief asked for. In this case, the applicant had failed to avail himself of the normal remedy of appealing in the High Court. Further, it appeared that the Rent Board order had been made by consent which therefore precluded the applicant from applying for certiorari; — (2) certiorari would issue to quash an order which was voidable but not ordinarily an order which was wholly void. The only orders which the Board could lawfully make in this case were an order granting the applicant leave to sue for possession or refusing him such permission.

Case referred to:—

(1) *Teh Say Mooi v. Tan Chor Leng* (1950) M.L.J. 90.

APPLICATION for an order of a prerogative writ of *certiorari*.

Ng Ek Teong for the applicant.

Respondent in person.

Cur. Adv. Vult.

Briggs, J. [delivering oral judgment, said]: — This is an application for an order in the nature of a prerogative writ of *certiorari* to quash an order made by the Rent Board of Raub. The order of the Board is objected to on two grounds; first, that it orders the present applicant to vacate certain premises, and secondly, that it imposes certain conditions. In both these respects it appears quite clear that the order was unlawful and bad. If authority is needed it is to be found in the case of *Teh Say Mooi v. Tan Chor Leng*[1]. There is no doubt that Rent Boards are quasi-judicial bodies whose decisions can be brought up and quashed on *certiorari;* but the making of an order of *certiorari* is in these cases discretionary, and the Court has to observe in each case the principles which would be applicable in the High Court in England. The order will not be made if the conduct of the applicant has been such as to disentitle him into the relief asked for — see 9 *Hailsham*, paragraph 1481. I think that in this case the conduct of the applicant, which I do not criticize on any moral grounds, but merely deal with from the purely legal aspect, has in two respects disentitled him to obtain the order for which he asks. In the first place it was open to him to appeal to the High Court against the order made. He did not do so and, by reason of having neglected the normal remedy opened to him, I think he is precluded from coming and asking for an extraordinary remedy in these proceedings.

He has also another difficulty to overcome. Although it does not so appear from the terms of the Rent Board's order, it does appear from the Grounds of Judgment given by the President of the Rent Board that this order was in fact a consent order, and was made after negotiation as regards certain terms and conditions and with the approval of both parties. Counsel for the applicant does not admit that that is so in fact, but there is no affidavit to the contrary, and I must, for the purposes of this application, accept what the President has said, and where the order is only that of a quasi-judicial body, as opposed to a Court, one can go behind the wording of the order itself. If it is correct that the order was a consent order, there has been a submission to jurisdiction which would be conduct precluding the applicant from applying now for *certiorari*. It may be that if this was a consent order it was not appealable and to that